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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,291	08/24/2005	Mark Eric James Prentice	93602	6464
24628	7590	03/25/2008	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606				BARAN, MARY C
2857		ART UNIT		PAPER NUMBER
03/25/2008		MAIL DATE		DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/522,291	PRENTICE ET AL.	
	Examiner	Art Unit	
	MARY C. BARAN	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 December 2007.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 38-40,43,45 and 79-86 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 38-40,43,45 and 79-86 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1 May 06;7 March 05</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group III (claims 38-40, 43 and 45) in the reply filed on 14 December 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Information Disclosure Statement

2. The information disclosure statements filed 7 March 2005 and 1 May 2006 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

4. Claims 45 and 83 are objected to because of the following informalities:

- (a) Claim 45 line 1, "An instrument" should be -- A mobile instrument --.
- (b) Claim 45 line 1, please delete "to".
- (c) Claim 83 line 2, please delete "in use".
- (d) Claim 83 line 2, "the instrument" should be -- the instrument --.
- (e) Claim 83 line 3, "information; a" should be -- information; and a --.
- (f) Claim 83 line 4, please correct the font for "first".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 81 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 81 is indefinite because it is dependent on cancelled claim 1, and it is not clear from the claimed language if "the device" is the "measuring device" as claimed in claim 39 or the "device for controlling" as claimed in claims 79 and 80. Furthermore, claim 81 recites the language "device is a monostable"; however, it is not clear from the claimed language what the monostable is referring to.

Claim Rejections - 35 USC § 102

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 38-40, 43, 45, 79, 80 and 83-86 are rejected under 35 U.S.C. 102(e) as being anticipated by McGivern (U.S. Patent No. 6,952,881).

Referring to claim 38, McGivern teaches a method of operating a mobile instrument (see McGivern, column 2 lines 18-21), the instrument including two or more measuring devices, the measuring devices including a camera (see McGivern, column 9 lines 50-53) and one or more spatial sensor (see McGivern, column 3 lines 46-51):

the method including asynchronously controlling the supply of power to at least two of the measuring devices (see McGivern, column 7 line 61 – column 8 line 2).

Referring to claim 39, McGivern teaches a mobile instrument (see McGivern, column 2 lines 18-21) including:

two or more measuring devices including a camera (see McGivern, column 9 lines 50-53), and one or more spatial sensors (see McGivern, column 3 lines 46-51);
a first power switch operable to control power to one or more first ones of the measuring devices (se McGivern, column 7 line 61 – column 8 line 2);

a second power switch to control power to one or more second ones of the measuring devices (see McGivern, column 7 line 61 -- column 8 line 2); and a power controller capable of asynchronously operating the first and second power switches (see McGivern, column 7 lines 56-66 and Figure 1 "power supply 108").

Referring to claim 40, McGivern teaches that the power controller is at least partially integrated with one of the measuring devices (see McGivern, Figure 1 "power supply 108").

Referring to claim 43, McGivern teaches that the power controller includes one or more power control lines for controlling the power switches (see McGivern, column 7 lines 56-66), a camera data line coupled to the camera (see McGivern, column 9 lines 50-57), and one or more sensor data lines each coupled to a respective spatial sensor (see McGivern, column 3 lines 46-51).

Referring to claim 45, McGivern teaches that the one or more spatial sensors include one or more of: a distance meter (see McGivern, column 3 lines 41-43), a global positioning system (see McGivern, column 13 lines 31-36), and an orientation sensor (see McGivern, column 3 lines 57-67).

Referring to claim 79, McGivern teaches that the power controller includes a processor (see McGivern, Figure 6 "control circuitry 106"), and a device for controlling the supply of power to the processor (see McGivern, Figure 6 "switch 110").

Referring to claim 80, McGivern teaches that the power controller includes a processor (see McGivern, Figure 6 "control circuitry 106"), and a device for controlling the supply of power to the processor (see McGivern, Figure 6 "switch 110").

Referring to claim 83, McGivern teaches a port able to be connected to an external sensor from which the mobile instrument may obtain further information; and a third power switch to control power to the port, the power controller being capable of asynchronously controlling the first, second and third power switches (see McGivern, column 13 lines 29-43).

Referring to claim 84, McGivern teaches that the measuring devices include: a distance meter (see McGivern, column 3 lines 41-43), a global positioning system (see McGivern, column 13 lines 31-36) and an orientation sensor (see McGivern, column 3 lines 57-67), and the mobile instrument further includes a display screen (see McGivern, Figure 6 "display module 104").

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Referring to claim 85, McGivern teaches that the power controller is a central processing platform which also receives data from the measuring devices (see McGivern, column 3 lines 47-51).

Referring to claim 86, McGivern teaches that the controller is arranged to control the power switches to provide power to a measuring device when it is required to provide data and not to provide power to the measuring device at other times (see McGivern, column 7 line 56 -- column 8 line 2).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 82 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGivern (U.S. Patent No. 6,952,881) in view of Kashani (U.S. PG Pub No. US 2002/0032875).

Referring to claim 82, McGivern teaches all the features of the claimed invention except that the power controller includes two or more handshaking lines, each coupled to a respective power switch.

Kashani teaches that the power controller includes two or more handshaking lines, each coupled to a respective power switch (see Kashani, page 12 [0188]).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify McGivern to include the teachings of Kashani because including a handshaking line would have allowed the skilled artisan to provide an acknowledgment of the received data (see Kashani, page 12 [0188]).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - (a) Weinstein et al. teach systems and methods for electrosurgical tissue revascularization.
 - (b) Strub et al. teach a low attention recording, with particular application to social recording.
 - (c) Fujita et al. teach a capsule type medical device.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY C. BARAN whose telephone number is (571)272-2211. The examiner can normally be reached on Monday to Friday 9:00-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on (571) 272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mary Catherine Baran
12 March 2008

/Hal D Wachsman/
Primary Examiner, Art Unit 2857